

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

GREG WHITE

APPELLANT,

**v.
COLE COUNTY, MISSOURI, ET AL.**

RESPONDENTS.

DOCKET NUMBER WD76321

DATE: April 1, 2014

Appeal From:

Cole County Circuit Court
The Honorable John B. Berkemeyer, Judge

Appellate Judges:

Division Two: Gary D. Witt, Presiding Judge, Lisa White Hardwick, Judge and Alok Ahuja,
Judge

Attorneys:

Clifford W. Cornell, Jefferson City, MO, for appellant.

Jill C. LaHue, Jefferson City, MO, for respondents.

MISSOURI APPELLATE COURT OPINION SUMMARY

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GREG WHITE,

APPELLANT,

v.

COLE COUNTY, MISSOURI, ET AL.,

RESPONDENTS.

No. WD76321

Cole County

Before Division Two: Gary D. Witt, Presiding Judge, Lisa White Hardwick, Judge and Alok Ahuja, Judge

Appellant Greg White, the Sheriff of Cole County, appeals the circuit court's grant of summary judgment in favor of the political subdivision of Cole County, and its three individual County Commissioners (collectively, "the County"). White filed suit against the County alleging that it was misappropriating law enforcement sales tax funds that were specifically designated for law enforcement in Cole County. The trial court granted the County's motion for summary judgment. White asserts five points on appeal. First, White argues that the court erred in granting summary judgment because section 50.515 does not allow for the imposition of an administrative service fee on the tax that is generated pursuant to section 67.582. Second, White argues that there is a genuine issue of material fact as to whether the tax funds or general revenue funds were used to pay previous administrative service fees. Third, he alleges that the administrative services and expenses were not referenced in the ballot language through which the law enforcement tax was enacted. Fourth, he contends that the administrative services and expenses "are not logically and definitely ones that would be included in facility and law enforcement operating expenses." Fifth, he argues that the County did not establish its right to judgment as a matter of law.

AFFIRMED

Division Two Holds:

The trial court did not err in granting summary judgment because no genuine dispute of material fact existed, in that:

(1) The imposition of a fee to cover the costs of "operating expenses" associated with law enforcement operations does not erroneously stem from section 50.515 but rather properly stems from the law enforcement sales tax statute itself, section 67.582.

(2) It is irrelevant whether tax funds or general revenue funds were used to pay administrative service fees since either fund is authorized for the payment of these expenses.

(3) Section 67.582.5 expressly gives the County a legal right to use the tax funds for "law enforcement operating expenses," whose description rests with the County as described in its resolution implementing the tax and in the ballot language approved by the voters.

(4) If an expense can be logically and reasonably included in "law enforcement operating expenses," then it can be assessed against the tax proceeds based on the authority of the statute, the authority in the County's resolution and the authority of the ballot language.

(5) White's fifth point contained no legal authority and as such was deemed abandoned.

Opinion by Gary D. Witt, Judge

April 1, 2014

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